

REMARKS

Upon entry of the above amendments, this Application will contain claims 29, 35-55 pending and under consideration. In the latest Office Action (dated December 10, 2002, paper no. 16) claims 29, 35-43, 46-48 and 50-54 were rejected under 35 USC §103(a) over Good et al. (US 6,194,224) in view of Dreyfus (US 2,063,987). Claims 44, 45, and 49 were considered to be allowable if rewritten in independent form to include all the limitations of the base claim and any intervening claims. New claim 55 has been added in this Response. For the reasons more fully disclosed below, it is believed that the claims are patently distinct from these references. Reconsideration leading to timely allowance of this application is respectfully requested.

Rejections Under 35 USC §103(a)

Claims 29, 35-43, 46-48 and 50-54 were rejected under 35 USC §103(a) over Good et al. (US 6,194,224) in view of Dreyfus (US 2,063,987). It was stated in the Office Action that it would be obvious to use the oleoyl sarcosine wetting agents taught by Dreyfus in the test strips of Good. Each of independent claims 29, 39, 41, 50, and 51, recite that the wetting agent is N-oleoyl-sarconsinate.

The Applicant submits that the combined references Good et al. and Dreyfus do not make the claimed invention obvious. Filed herewith is a Declaration by Dr. Knappe filed under 37 CFR §1.132 in support of the non-obviousness of the presently claimed invention. The claimed invention provides unexpected results including that the use of N-oleoyl-sarconsinate as a spreading agent provides unexpected and significantly better results as a spreading agent than other sarconsinate derivatives. The facts set out in Dr. Knappe's Declaration establish the following:

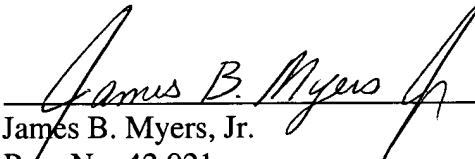
- 1) N-oleoyl-sarconsinate functions as superior wetting agent for a fleece material.
- 2) In comparative tests, N-oleoyl-sarconsinate performed significantly better as a wetting agent than other sarconsinates including the specific amino acid derivatives listed in Dreyfus, i.e., acetylated amino groups of amino acids with lauric, stearic, palmitic and oleic radicals. (Dreyfus col. 2, lines 20-29, and col., 3, lines 6-18.)
- 3) Only N-oleoyl-sarconsinate allowed the venious blood to diffuse through the fleece material without the added assistance provided by disrupting the drop's surface tension using the pipette tip.

Consequently, it is believed that the claimed invention, which includes N-oleoyl-sarconsinate as a wetting agent, provides unexpected results over other sarconsinates. Therefore, it is believed that the claimed invention not made obvious by either Good et al. or Dreyfus considered singly or in combination.

CONCLUSION

In view of the foregoing, the Applicant respectfully submits that the cited references, considered either singly or in combination, do not disclose or make obvious the claimed invention. Accordingly, reconsideration leading to withdrawal of all outstanding rejections under 35 USC § 103(a) and passage of this application containing claims 29 and 35-55 are requested. Additionally, the Examiner is invited to telephone the undersigned attorney if there are any questions about this submission or other matters that can be addressed in that fashion.

Respectfully submitted,

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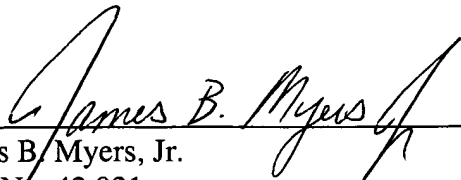
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With reference to the RESPONSE TO OFFICE ACTION SUBMITTED UNDER 36 CFR §1.111 submitted June 10, 2003, is the referenced Declaration of Dr. Wolfgang-Rheinhold Knappe. This Declaration further supports the remarks made in the RESPONSE. Additionally, the Examiner is invited to telephone the undersigned attorney if there are any questions about this submission or other matters that can be addressed in that fashion.

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